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Attorneys for Defendant and Counter-Claimant,
DELTA V BIOMECHANICS, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DELTA V FORENSIC ENGINEERING, Case No. 2:18-cv-02780-DDP-AFM
INC., a North Carolina Corporation,

Plaintiffs,

v.

DELTA V BIOMECHANICS, INC., a
California Corporation; Does 1 through

~~[PROPOSED]~~ **STIPULATED
PROTECTIVE ORDER¹**

¹ This Stipulated Protective Order is based substantially on the model protective order provided under Magistrate Judge Alexander F. MacKinnon's Procedures.

1 10, inclusive,

2 Defendants.

3
4 DELTA V BIOMECHANICS, INC., a
5 California Corporation;

6 Counter-Claimant,

7 v.
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9 DELTA V FORENSIC ENGINEERING,
10 INC., a North Carolina Corporation,

11 Counter-Defendant.

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1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to
8 discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment
10 under the applicable legal principles.

11
12 **B. GOOD CAUSE STATEMENT**

13
14 This action is likely to involve trade secrets, customer and pricing
15 information and other valuable research, development, business, commercial,
16 litigation, financial, technical and/or proprietary information for which special
17 protection from public disclosure and from use for any purpose other than
18 prosecution of this action is warranted. Such confidential and proprietary materials
19 and information consist of, among other things, confidential business or financial
20 information, information regarding confidential business practices, or other
21 confidential research, development, or commercial information (including
22 information implicating privacy rights of third parties), information otherwise
23 generally unavailable to the public, or which may be privileged or otherwise
24 protected from disclosure under state or federal statutes, court rules, case decisions,
25 or common law. Accordingly, to expedite the flow of information, to facilitate the
26 prompt resolution of disputes over confidentiality of discovery materials, to
27 adequately protect information the parties are entitled to keep confidential, to
28 ensure that the parties are permitted reasonable necessary uses of such material in

1 preparation for and in the conduct of trial, to address their handling at the end of
2 the litigation, and serve the ends of justice, a protective order for such information
3 is justified in this matter. It is the intent of the parties that information will not be
4 designated as confidential for tactical reasons and that nothing be so designated
5 without a good faith belief that it has been maintained in a confidential, non-public
6 manner, and there is a good cause why it should not be a part of the public records
7 of this case.

8
9 C. ACKNOWLEDGEMENT OF PROCEDURE FOR FILING UNDER
10 SEAL

11 The parties further acknowledge, as set forth in Section 12.3, below, that this
12 Stipulated Protective Order does not entitle them to file confidential information
13 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
14 and the standards that will be applied when a party seeks permission from the court
15 to file material under seal.

16 There is a strong presumption that the public has a right of access to judicial
17 proceedings and records in civil cases. In connection with non-dispositive motions,
18 good cause must be shown to support a filing under seal. *See Kamakana v. City*
19 *and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen.*
20 *Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony*
21 *Electrics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective
22 orders require good cause showing), and a specific showing of good cause or
23 compelling reasons with proper evidentiary support and legal justification, must be
24 made with respect to Protected Material that a party seeks to file under seal. The
25 parties' mere designation of Disclosure or Discovery Material as
26 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY
27 does not—without the submission of competent evidence by declaration,
28

1 establishing that the material sought to be filed under seal qualifies as confidential,
2 privileged, or otherwise protectable—constitute good cause.

3 Further, if a party requests sealing related to a dispositive motion or trial,
4 then compelling reasons, not only good cause, for the sealing must be shown, and
5 the relief sought shall be narrowly tailored to serve the specific interest to be
6 protected. *See Pintos v. Pacific Creditors Ass’n.*, 605 F.3d 665, 677-79 (9th Cir.
7 2010). For each item or type of information, document, or thing sought to be filed
8 or introduced under seal in connection with a dispositive motion or trial, the party
9 seeking protection must articulate compelling reasons, supported by specific facts
10 and legal justification, for the requested sealing order. Again, competent evidence
11 supporting the application to file documents under seal must be provided by
12 declaration.

13 Any document that is not confidential, privileged, or otherwise protectable
14 in its entirety will not be filed under seal if the confidential portions can be
15 redacted. If documents can be redacted, then a redacted version for public viewing,
16 omitting only the confidential, privileged, or otherwise protectable portions of the
17 document, shall be filed. Any application that seeks to file documents under seal in
18 their entirety should include an explanation of why redaction is not feasible.

19
20 **2. DEFINITIONS**

21 2.1 Action: This pending federal lawsuit, *Delta V Forensic Engineering,*
22 *Inc. v Delta V Biomechanics, Inc.*, Case No. 2:18-cv-02780-DDP-AFM.

23 2.2 Challenging Party: A Party Or Non-Party that challenges the
24 designation of information or items under this order.

25 2.3 “CONFIDENTIAL” Information or Items: information (regardless
26 of how it is generated, stored or maintained) or tangible things that qualify for
27 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
28 the Good Cause Statement.

1 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
2 their support staff).

3 2.5 Designating Party: a Party or Non-Party that designates information
4 or items that it produces in disclosures or in response to discovery as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
6 ONLY.”

7 2.6 Disclosure or Discovery Material: all items or information
8 regardless of the medium or manner in which it is generated, stored, or maintained
9 (including, among other things, testimony, transcripts, and tangible things), that are
10 produced or generated in disclosures or responses to discovery in this matter.

11 2.7 Expert: a person with specialized knowledge or experience in a
12 matter pertinent to the litigation who has been retained by a Party or its counsel to
13 serve as an expert witness or as a consultant in this Action.

14 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
15 Information or Items: extremely sensitive CONFIDENTIAL Information or
16 Items, disclosure of which would create a substantial risk of serious harm that
17 could not be avoided by less restrictive means.

18 2.9 House Counsel: attorneys who are employees of a party to this
19 Action. House Counsel does not include Outside Counsel of Record or any other
20 outside counsel.

21 2.10 Non-Party: any natural person, partnership, corporation, association
22 or other legal entity not named as a Party to this action.

23 2.11 Outside Counsel of Record: attorneys who are not employees of a
24 party to this Action but are retained to represent or advise a party to this Action
25 and have appeared in this Action on behalf of that party or are affiliated with a law
26 firm that has appeared on behalf of that party, and includes support staff.

27 2.12 Party: any party to this Action, including all of its officers, directors,
28 employees, consultants, retained experts, and Outside Counsel of Record (and their

1 support staffs).

2 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
3 Discovery Material in this Action.

4 2.14 Professional Vendors: persons or entities that provide litigation
5 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)
7 and their employees and subcontractors.

8 2.15 Protected Material: any Disclosure or Discovery Material that is
9 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY.”

11 2.16 Receiving Party: a Party that receives Disclosure or Discovery
12 Material from a Producing Party.

13
14 3. SCOPE

15 The protections conferred by this Stipulation and Order cover not only
16 Protected Material (as defined above), but also (1) any information copied or
17 extracted from Protected Material; (2) all copies, excerpts, summaries, or
18 compilations of Protected Material; and (3) any testimony, conversations, or
19 presentations by Parties or their Counsel that might reveal Protected Material.

20 Any use of Protected Material at trial shall be governed by the orders of the
21 trial judge. This Order does not govern the use of Protected Material at trial.

22
23 4. DURATION

24 Once a case proceeds to trial, information that was designated as
25 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY
26 or maintained pursuant to this protective order used or introduced as an exhibit at
27 trial becomes public and will be presumptively available to all members of the
28 public, including the press, unless compelling reasons supported by specific factual

1 findings to proceed otherwise are made to the trial judge in advance of the trial.
2 *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause” showing for
3 sealing documents produced in discovery from “compelling reasons” standard
4 when merits-related documents are part of court record). Accordingly, the terms of
5 this protective order do not extend beyond the commencement of the trial.
6

7 **5. DESIGNATING PROTECTED MATERIAL**

8 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

9 Each Party or Non-Party that designates information or items for protection under
10 this Order must take care to limit any such designation to specific material that
11 qualifies under the appropriate standards. The Designating Party must designate for
12 protection only those parts of material, documents, items or oral or written
13 communications that qualify so that other portions of the material, documents,
14 items or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this Order

16 Mass, indiscriminate or routinized designations are prohibited. Designations
17 that are shown to be clearly unjustified or that have been made for an improper
18 purpose (e.g., to unnecessarily encumber the case development process or to
19 impose unnecessary expenses and burdens on other parties) may expose the
20 Designating Party to sanctions.

21 If it comes to a Designating Party’s attention that information or items that it
22 designated for protection do not qualify for protection, that Designating Party must
23 promptly notify all other Parties that it is withdrawing the inapplicable designation.

24 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
25 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
26 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
27 under this Order must be clearly so designated before the material is disclosed or
28 produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
6 ONLY,” to each page that contains protected material. If only a portion of the
7 material on a page qualifies for protection, the Producing Party also must clearly
8 identify the protected portion(s) (e.g., by making appropriate markings in the
9 margins).

10 A Party or Non-Party that makes original documents available for inspection
11 need not designate them for protection until after the inspecting Party has indicated
12 which documents it would like copied and produced. During the inspection and
13 before the designation, all of the material made available for inspection shall be
14 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
15 inspecting Party has identified the documents it wants copied and produced, the
16 Producing Party must determine which documents, or portions thereof, qualify for
17 protection under this Order. Then, before producing the specified documents, the
18 Producing Party must affix the appropriate legend (“CONFIDENTIAL” OR
19 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each page that
20 contains Protected Material. If only a portion of the material on a page qualifies for
21 protection, the Producing Party also must clearly identify the protected portion(s)
22 (e.g., by making appropriate markings in the margins).

23 (b) for testimony given in depositions that the Designating Party
24 identifies the Disclosure or Discovery Material on the record, before the close of
25 the deposition all protected testimony.

26 (c) for information produced in some form other than documentary and
27 for any other tangible items, that the Producing Party affix in a prominent place on
28 the exterior of the contained or containers in which the information is stored the

1 appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY”). If only a portion or portions of the information
3 warrants protection, the Producing Party, to the extent practicable, shall identify
4 the protection portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
6 failure to designate qualified information or items does not, standing alone, waive
7 the Designating Party’s right to secure protection under this Order for such
8 material. Upon timely correction of a designation, the Receiving Party must make
9 reasonable efforts to assure that the material is treated in accordance with the
10 provisions of this Order.

11 12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Any party of Non-Party may challenge a
14 designation of confidentiality at any time that is consistent with the Court’s
15 Scheduling Order

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
17 resolution process under Local Rule 37-1 et seq.

18 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a
19 joint stipulation pursuant to Local Rule 37-2.

20 6.4 The burden of persuasion in any such challenge proceeding shall be
21 on the Designating Party. Frivolous challenges, and those made for an improper
22 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
23 parties) may expose the Challenging Party to sanctions. Unless the Designating
24 Party has waived or withdrawn the confidentiality designation, all parties shall
25 continue to afford the material in question the level of protection to which it is
26 entitled under the Producing Party’s designation until the Court rules on the
27 challenge.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under
6 the conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of section 13 below (FINAL
8 DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

16 a) the Receiving Party’s Outside Counsel of Record in this Action,
17 as well as employees of said Outside Counsel of Record to whom it is reasonably
18 necessary to disclose the information for this Action and who have signed the
19 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

20 b) the officers, directors, and employees (including House
21 Counsel) of the Receiving Party to whom disclosure is reasonable necessary for
22 this Action and who have signed the “Acknowledgement and Agreement to Be
23 Bound” (Exhibit A);

24 c) Experts (as defined in this Order) of the Receiving Party to
25 whom disclosure is reasonable necessary for this Action and who have signed the
26 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

27 d) the Court and its personnel;

28 e) court reporters and their staff;

1 f) professional jury or trial consultants, mock jurors, and
2 Professional Vendors to whom disclosure is reasonably necessary for this Action
3 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
4 A);

5 g) the author or recipient of a document containing the
6 information or a custodian or other person who otherwise possessed or knew the
7 information;

8 h) during their depositions, witnesses, and attorneys for witnesses,
9 in the Action to whom disclosure is reasonably necessary provided that, if such
10 witnesses or attorneys are not otherwise among the persons entitled to access
11 CONFIDENTIAL Information or Items under section 7.2, disclosure may occur
12 only after: (1) the deposing party, in advance of the deposition, obtains either a
13 written consent to the disclosure from the Designating Party or a Court order
14 permitting such disclosure; (2) the deposing party requests that the witness sign the
15 form attached as Exhibit 1 hereto; and (3) they will not be permitted to keep any
16 Protected Material information unless they sign the “Acknowledgment and
17 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
18 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits
19 to depositions that reveal Protected Material may be separately bound by the court
20 reporter and may not be disclosed to anyone except as permitted under this
21 Stipulated Protective Order; and

22 i) any mediator or settlement officer, and their supporting
23 personnel, mutually agreed upon by any of the parties engaged in settlement
24 discussions.

25 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
26 ONLY” Information or Items. Unless otherwise ordered by the court or permitted
27 in writing by the Designating Party, a Receiving Party may disclose any
28 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’

1 EYES ONLY” only to:

2 a) the Receiving Party’s Outside Counsel of Record in this Action,
3 as well as employees of said Outside Counsel of Record to whom it is reasonably
4 necessary to disclose the information for this Action and who have signed the
5 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

6 b) Experts (as defined in this Order) of the Receiving Party to
7 whom disclosure is reasonable necessary for this Action and who have signed the
8 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

9 c) the Court and its personnel;

10 d) court reporters and their staff;

11 e) professional jury or trial consultants, mock jurors, and
12 Professional Vendors to whom disclosure is reasonably necessary for this Action
13 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
14 A);

15 f) the author or recipient of a document containing the
16 information or a custodian or other person who otherwise possessed or knew the
17 information; and

18 g) any mediator or settlement officer, and their supporting
19 personnel, mutually agreed upon by any of the parties engaged in settlement
20 discussions.

21 Notwithstanding the above, “HIGHLY CONFIDENTIAL – ATTORNEYS’
22 EYES ONLY” Information or Items may not be disclosed to any person related to
23 a Receiving Party.

24 8. PROTECTED MATERIAL SUBPOEANED OR ORDERED PRODUCED
25 IN OTHER LITIGATION

26 If a Party is served with a subpoena or a court order issued in other litigation
27 that compels disclosure of any Protected Material, that Party must:

28 a) promptly notify in writing the Designating Party. Such

1 notification shall include a copy of the subpoena or court order;

2 b) promptly notify in writing the party who caused the subpoena
3 or order to issue in the other litigation that some or all of the material covered by
4 the subpoena or order is subject to this Protective Order. Such notification shall
5 include a copy of this Stipulated Protective Order; and

6 c) cooperate with respect to all reasonable procedures sought to be
7 pursued by the Designating Party whose Protected Material may be affected.

8 If the Designating Party timely seeks a protective order, the Party served
9 with the subpoena or court order shall not produce any Protected Material before a
10 determination by the court from which the subpoena or order issued, unless the
11 Party has obtained the Designating Party's permission. The Designating Party shall
12 bear the burden and expense of seeking protection in that court of its Protected
13 Material and nothing in these provisions should be construed as authorizing or
14 encouraging a Receiving Party in this Action to disobey a lawful directive from
15 another court.

16
17 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
18 **PRODUCED IN THIS LITIGATION**

19 (a) The terms of this Order are applicable to information produced
20 by a Non-Party in this Action and designated as "CONFIDENTIAL" or "HIGHLY
21 CONFIDENTIAL – ATTORNEYS' EYES ONLY." Such information produced
22 by Non-Parties in connection with this litigation is protected by the remedies and
23 relief provided by this Order. Nothing in these provisions should be construed as
24 prohibiting a Non-Party from seeking additional protections.

25 (b) In the event that a Party is required, by a valid discovery
26 request, to produce a Non-Party's Protected Material in its possession, and the
27 Party is subject to an agreement with the Non-Party not to produce the Non-Party's
28

Protected Material, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make sure the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's Protected Material responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

1
2 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
3 **OTHERWISE PROTECTED MATERIAL**

4 When a Producing Party gives notice to Receiving Parties that certain
5 inadvertently produced material is subject to a claim of privilege or other
6 protection, the obligations of the Receiving Parties are those set forth in Federal
7 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
8 whatever procedure may be established in an e-discovery order that provides for
9 production without prior privilege review.

10 The production or disclosure of an attorney-client privileged, attorney work
11 product, or other privileged document or information (“Privileged Material”) shall
12 not be deemed a waiver of the privilege, work product, or other protection or
13 immunity from discovery by the producing party in this or any subsequent state or
14 federal proceeding pursuant to Federal Rule of Evidence 502 regardless of the
15 circumstances of disclosure or whether the factors under Federal Rule of Evidence
16 502(b) are satisfied. Upon discovery by the receiving party, or receipt of written
17 notice from the producing party identifying Privileged Material as inadvertently
18 produced, the receiving party shall within seven (7) business days either: (a) return
19 or certify the destruction of all such documents, all copies, and any work product
20 or portions of any work product containing or reflecting the contents of the subject
21 materials; or (b) after attempting to resolve any dispute with opposing counsel
22 informally, file a motion to challenge the assertion of privilege and tender the
23 subject documents for in camera review with the motion.

24
25 **12. MISCELLANEOUS**

26 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
27 person to seek its modification by the Court in the future.

28 12.2 Right to Assert Other Objections. By stipulating to the entry of this

1 Protective Order, no Party waives any right it otherwise would have to object to
2 disclosing or producing any information or item on any ground not addressed in
3 this Stipulated Protective Order. Similarly, no Party waives any right to object on
4 any ground to use in evidence of any of the material covered by this Protective
5 Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal any
7 Protected Material must comply with Local Civil Rule 79-5. Protected Material
8 may only be filed under seal pursuant to a court order authorizing the sealing of the
9 specific Protected Material at issue. If a Party's request to file Protected Material
10 under seal is denied by the court, then the Receiving Party may file the information
11 in the public record unless otherwise instructed by the court.

12 13 **13. FINAL DISPOSITION**

14 After the final disposition of this Action, as defined in paragraph 4, within
15 60 days of a written request by the Designating Party, each Receiving Party must
16 return all Protected Material to the Producing Party or destroy such material. As
17 used in this subdivision, "all Protected Material" includes all copies, abstracts,
18 compilations, summaries, and any other format reproducing or capturing any of the
19 Protected Material. Whether the Protected Material is returned or destroyed, the
20 Receiving Party must submit a written certification to the Producing Party (and, if
21 not the same person or entity, to the Designating Party) by the 60 day deadline that
22 (1) identifies (by category, where appropriate) all the Protected Material that was
23 returned or destroyed and (2) affirms that the Receiving Party has not retained any
24 copies, abstracts, compilations, summaries or any other format reproducing or
25 capturing any of the Protected Material. Notwithstanding this provision, Counsel
26 are entitled to retain an archival copy of all pleadings, motion papers, trial,
27 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
28 and trial exhibits, expert reports, attorney work product, and consultant and expert

work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

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1 **14. VIOLATION**

2 Any violation of this Order may be punished by appropriate measures
3 including, without limitation, contempt proceedings and/or monetary sanctions.
4

5 IT IS SO STIPULATED, THROUGH THE COUNSEL OF RECORD
6
7

8 Date: September 11, 2018

KERR & WAGSTAFFE LLP

10 By: /s/ James M. Wagstaffe

11 JAMES M. WAGSTAFFE

12 FRANK BUSCH

MARIA RADWICK

13 Attorneys for Defendant/Counter-claimant,
14 DELTA V BIOMECHANICS, INC.

15 Date: September 11, 2018

CALL & JENSEN

18 By: /s/ Samuel G. Brooks

19 SCOTT P. SHAW

SAMUEL G. BROOKS

20 Attorneys for Plaintiff/Counter-defendant,
21 DELTA V FORENSIC ENGINEERING,
22 INC.

23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
24

25 Dated: 9/11/2018



26
27 ALEXANDER F. MacKINNON
28 United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of California
7 on [date] in the case of *Delta V Forensic Engineering, Inc. v Delta V*
8 *Biomechanics, Inc.*, Case No. 2:18-cv-02780-DDP-AFM . I agree to comply with
9 and to be bound by all the terms of this Stipulated Protective Order and I
10 understand and acknowledge that failure to so comply could expose me to
11 sanctions and punishment in the nature of contempt. I solemnly promise that I will
12 not disclose in any manner any information or item that is subject to this Stipulated
13 Protective Order to any person or entity except in strict compliance with the
14 provisions of this Order. I further agree to submit to the jurisdiction of the United
15 States District Court for the Central District of California for enforcing the terms of
16 this Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action.

18 I hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26
27 Signature: _____
28

1 **LOCAL RULE 5-4.3.4(a) ATTESTATION**

2 Pursuant to Central District Local Rule 5-4.3.4(a), I, James M. Wagstaffe,
3 attest that all other signatories listed, and on whose behalf the filing is submitted,
4 concur in this filing's content and have authorized the filing.
5

6 Date: September 11, 2018

KERR & WAGSTAFFE LLP

7
8 By: /s/ James M. Wagstaffe

9 JAMES M. WAGSTAFFE

10 FRANK BUSCH

11 MARIA RADWICK

12 Attorneys for Defendant/Counter-claimant,
13 DELTA V BIOMECHANICS, INC.
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